

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8

9 JOHN EMERSON,

No. C 10-4919 SI

10 Plaintiff,

**ORDER DENYING DEFENDANTS'
MOTION FOR ORDER
SHORTENING TIME AND
MODIFYING DISCLOSURE DATES**

11 v.

12 BANK OF AMERICA., *et al.*,

13 Defendants.
14 _____/

15
16 On April 5, 2012, defendants filed a motion for an order shortening time to hear defendants'
17 motion to strike plaintiff's expert witness disclosure. Defendants' motion states that on April 2, 2012,
18 plaintiff's counsel requested an extension of the deadline for expert disclosures (which was April 2,
19 2012), and defendants' counsel "declined to stipulate to the extension because she could not reach her
20 clients [and] Moreover, Plaintiff never filed a motion requesting to extend the time to serve his
21 expert witness disclosure." Motion at 2:21-24. Plaintiff filed the expert disclosures on April 3, 2012.
22 Defendants contend that the disclosures should be stricken as untimely, and also that they are inadequate
23 because plaintiff's counsel did not submit expert reports.

24 Plaintiff's counsel filed a declaration in opposition to defendants' motion. Plaintiff's counsel
25 states, *inter alia*, that the attorney who had been working on this case became seriously ill and on April
26 1, 2012 informed him that she "would immediately be relieving herself of all responsibilities for any
27 case she was working on in my office due to medical reasons" Opp'n at 1:26-27. Plaintiff's
28 counsel states that on April 2, 2012, he learned that the expert disclosure deadline was that same day,

1 and he immediately contacted defense counsel to request a short extension of the disclosure deadline
2 until after the parties' mediation the week of April 16. Counsel states that he also informed defense
3 counsel that he had been out of the office for much of the last several months attending to his 98 year
4 old mother, who is dying. Plaintiff asserts that defendants will not be prejudiced by one day delay in
5 submitting the expert disclosures, and plaintiff requests that the Court accept as timely the filing of
6 plaintiff's designation and permit plaintiff to file the report following the upcoming mediation.

7 The Court finds it unfortunate that defense counsel would not, as a matter of professional
8 courtesy, agree to the extension requested by plaintiff's counsel. The Court DENIES defendant's
9 request to shorten time. The Court also accepts as timely the filing of plaintiff's designation, and will
10 permit plaintiff to file the expert report by April 20, 2012. The parties are directed to meet and confer
11 regarding a modification of the deadline for rebuttal disclosures and rebuttal expert reports.

12
13 **IT IS SO ORDERED.**

14
15 Dated: April 6, 2012



16 SUSAN ILLSTON
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28